

## Minutes of the April 23, 2010 Regular Council Meeting

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Call to Order and Flag Salute at 3:30 pm by Mayor Serio.

Council in Attendance: Weistling, Serio, Carmean, Bunting, Smallwood, Tingle and Langan

### Topics for Discussion and Possible Action

**a. Request to Allow Open Ceremony & Live Entertainment May 7, 2010 "Indulgence Unique Gifts" – Council Member Weistling**

Council Member Weistling introduced Janilyn Elias, owner of Indulgence Unique Gifts. Ms. Elias asked that Council approve a ribbon cutting and opening ceremony on May 7, 2010 with a DJ from 2:30 – 5:00 PM. Shop is located in Village of Fenwick.

Motion to approve – Council Member Weistling

Second – Council Member Carmean

Discussion: Council Member Tingle did not anticipate traffic issues or other problems due to the time of the year.

Council Member Smallwood thanked Ms. Elias for choosing Fenwick Island.

Vote: All in favor (7-0)

**b. Resolution #43-2010 Amend Personnel Policy Manual – Council Members Carmean and Langan**

Council Member Carmean advised that the amendment includes a definition of "essential employee" and sequential renumbering due to its addition. It also amends Section 3 Part 3 "Group medical Insurance" terms to be replaced to show that the Town shall contribute toward the payment of premiums and that such contributions shall be determined as a matter of budgetary discretion on an annual basis.

Motion to accept Resolution #43-2010 – Council Member Carmean

Second: Council Member Langan

Discussion – Mayor Serio advised that this amendment includes a new term "liberal leave" and its definition. Council Member Weistling requested that the full text of the resolution be added to these minutes. (Resolution #43-2010 is attached to the end of this document).

Vote: All in favor (7-0)

Resolution #43-210 passed.

**c. Authorize Funds to Study Streets Repair Costs utilizing Kercher Engineering with a Maximum Allowance of \$2000 – Council member Weistling**

Motion to authorize funds – Council Member Weistling

Second – Council Member Langan

Discussion: Council Member Weistling advised that, for budget purposes, it is beneficial for the Town to have costs estimates of possible street repair projects. Fenwick Island Public Works Department has identified several streets in need of repair. A representative of Kercher Engineering will develop a cost estimate for those repairs as well as other streets that will require attention in the future. A maximum outlay of \$2000 is to be paid to Kercher for this work.

Council Member Weistling identified W Georgetown, W So Carolina and Bay Street as those streets most in need of repair as well as on-going flood issues on W West Virginia Ave. It's been two years since the last paving project. He further noted that, in light of the slow economic recovery, contractors seem more willing to participate.

Vote: All in favor (7-0)

Motion to authorize funds passed.

### Approval of Minutes:

Motion to Approve the Minutes of February 26, 2010 Meeting - Council Member Carmean

Second: Council Member Bunting

Discussion: None

Vote: (5-0-2); Council Member Tingle and Langan abstained. Both were absent at the February meeting.

Minutes Approved

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## **Treasurer's Report:**

Council Member Bunting noted that the financial report is included in the council meeting packet. The Town continues its re-allocation of investments.

Discussion: Council Member Carmean advised that this allows the Town to invest short-term in order to maximize current interest rates and to take advantage of future interest rate increases. Mayor Serio noted that auditor, Tom Sombar, had recommended this activity; Council Member Tingle advised that the Budget Committee all agreed.

Motion to Accept the Treasurer's Report - Council Member Carmean

Second - Council Member Langan

Vote: All in favor (7-0)

Treasurer's Report Approved

## **Town Manager Report:**

- Town Manager Abbott reported that the re-naming of W Essex St EXT (Ebb Tide Cove) is completed and that he currently is soliciting input from residents of W West Virginia Ave for their new name. Further information should be available at the next council meeting.
- The recent request for architectural and engineering bids was for services only and not a construction bid. Bid packages will be reviewed in the next few weeks.
- The Town has contracted with the State of Delaware for lifeguard services for the State beach (\$40,000) and Sussex County Council has awarded a grant of \$10,000 to the Town to assist with those costs.
- In response to a question from Mayor Serio, Mr. Abbott advised that the Town will participate in FEMA funds for snow-removal during the period of February 7-11, 2010. It will cover the cost of expenses and overtime if fully funded.

## **Department Reports:**

- Beach Patrol –No report
- Building Official – Report is included in the council packet.
- Public Works: Report is included in the council packet.
- Fenwick Island Police Department: Report included in the council packet. Chief Boyden also reported that his department has been awarded a Criminal Justice Council (CJC) grant for equipment (\$7500) and that Sussex County Council has reinstated its \$25, 000 grant program for municipal Police departments. Fenwick Island Police Department looks forward to an additional \$10,000 from the County. Council Member Langan noted that the new speed signs appear to be slowing traffic. In response to a question from Council Member Weistling, Chief Boyden added that the sign can function for six days without the sun re-charging it.

## **Committee Reports:**

- Beach Committee –Council Member Smallwood announced the Spring Beach Cleanup will be Saturday, May 22 at 9:00 AM on Dagsboro Street Beach.
- Environmental Committee –Council Member Carmean reported that Buzz Henifin presented a program about testing the bay water. The committee is completing its Tree Triage work. They will plant a tree on Arbor Day (April 30, 2010). Mayor Serio requested that the committee explore and possibly acquire a "Tree City USA" plaque similar to that in Lewes, DE.

**Planning Commission:** Report included in Council book.

## **Charter & Ordinance:**

- Council Member Weistling introduced a Second Reading of Chapter 112 Parking (included at the end of these minutes).  
Motion to accept – Council Member Weistling  
Council Member Tingle seconded.  
DISCUSSION: Council Member Weistling noted that the majority of the changes pertain to misspellings.  
Vote: Smallwood – aye; Carmean – aye; Serio – aye; Bunting – aye; Weistling – aye; Tingle – aye; Langan - aye  
Vote to accept the Second Reading of Chapter 112 – Parking: All in Favor.

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- Council Member Weistling introduced a Second Reading of Chapter 116 Peace and Good Order (included at the end of these minutes).  
Motion to accept – Council Member Weistling  
Council Member Bunting seconded.  
DISCUSSION: Council Member Weistling that the proposed changes involve minor changes in wording and the inclusion of hours and court costs.  
Vote: Smallwood – aye; Carmean – aye; Serio – aye; Bunting – aye; Weistling – aye; Tingle – aye; Langan - aye  
Vote to accept the Second Reading of Chapter 116 – Peace and Good Order: All in Favor.
- Council Member Weistling introduced a First Reading of Chapter 120 Property Maintenance (included at the end of these minutes).  
Motion to accept – Council Member Weistling  
Council Member Tingle seconded.  
DISCUSSION: Council Member Weistling noted that the fine is increased to \$500 and section 120-1b(2) is deleted.  
Vote: Smallwood – aye; Carmean – aye; Serio – aye; Bunting – aye; Weistling – aye; Tingle – aye; Langan - aye  
Vote to accept the Second Reading of Chapter 120 Property Maintenance: All in Favor.
- Council Member Weistling added that Charter & Ordinance continues to review Town Code and will soon take up Chapter 160 – Zoning. The May meeting is on Wednesday May 5, 2010 vs the first Tuesday of the month (May 4, 2010).

## Old Business:

- None

## New Business – No Action to be Taken:

- None

## Public Participation:

- Mary Pat Kyle (1205 Bunting Ave) – Suggested “Nanticoke Trail” as a possible name for W West Virginia Ave; complimented the Barefoot Gardeners for their work planting daffodils in the Town median. Mrs. Kyle presented council with a box of garbage that has been left behind by the Town’s trash collector. She suggested that they are very selective in what they take and what they leave and asked Council’s assistance. Town Manager Abbott advised that he has not had any complaints since October 2009 but will contact Moor Disposal about it.
- Buzz Henifin (48 Windward Way) –advised that he had difficulty changing his street name with Comcast. Comcast would not change the address without an official letter from Sussex County. It is important to save the original letter from the county and to send copies to all agencies concerned. Council Member Bunting noted that the county addressing group does not notify other county departments of the change. Town Manager Abbott advised that he has contacted some of the vendors and will notify Comcast of the change.
- Pete Frederick (1605 Bunting Ave) – expressed concern that the recent Resolution #43-2010 regarding the change in the Town’s contribution to employee health insurance premiums leaves the employees without any idea from year to year what their share of the contribution will be. Mayor Serio advised that is not the intent but this is a means to assist Council with budgetary recommendations. Mr. Frederick believes this is an unfair position for the employees. Mr. Frederick also suggested that the Town contact the owner of the “Joyeusz property” regarding establishing a trailhead for kayaks. It might be possible that the owner would donate the lot to the town for a tax advantage since DNREC has deemed the lot unbuildable. Council Member Weistling added that he believes DNREC may have worked out a compromise and that the lot may, in fact, be buildable. Mayor Serio advised that the Town will look into it.
- Martha Keller (1312 Bora Bora St) – asked if Council who attended the recent DNREC hearing at Town Hall could address the results. Mayor Serio advised that the Town sent a letter to DNREC re-stating its position. Council Member Smallwood had the impression that the application would be approved. Council Member Tingle noted

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that the Condo Association representatives and attorneys used most of the time but that the attorney for the trailer park (Abbott's) did speak. DNREC halted the meeting at 8:35 PM. Mayor Serio advised that, while the meeting was held at Town Hall, the Town was not in any way involved with the meeting. She believes that the application may advance further to a higher authority beyond DNREC.

- Mike Quinn (5 W Houston St) – asked if Fenwick Island will have beach grass planted. Town Manager Abbott advised that DNREC will not plant in Fenwick Island before the summer due to the early onset of warm weather.
- John Belian (1 W Houston St) – noted that the beach grass that has been planted is growing well.
- Council Member Weistling advised that he received a NIXLE notice that Fenwick Island Police Department will begin issuing daily reports. Chief Boyden noted that NIXLE now has the capability to “pin” an event to a map. These services are free and can even link to communities around the country. Council Member Carmean believes that these two capabilities will answer many town concerns.
- Martha Keller (1312 Bora Bora St) – suggested the public read the front page story of the Cape Gazette regarding DNREC testing for arsenic.

### **President's Report:**

- Mayor Serio reported that the Town received nineteen (19) packages for the Public Safety Building Architectural and Engineering Bid. The committee will review the packages in executive session and report its findings to council, again in executive session. This is an allowable use for closed meetings and it concerns negotiations. The final decision will be made in public (open) session.
- Mayor Serio made note of upcoming meetings.

Motion to Adjourn: Council Member Carmean

Second: Council Member Langan

All in favor Motion passed (7-0)

Mayor Serio adjourned the meeting at 4:40 PM.

Respectfully submitted,

Agnes DiPietrantonio, Town Clerk  
For Diane Tingle, Secretary

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## NOTICE (COPY OF RESOLUTION #43-2010)

On April 23, 2010 The Fenwick Island Town Council  
Passed the Following Resolution #43-2010

**Whereas**, the Town of Fenwick Island did, on October 26, 2007 approve a Personnel Policy Manual for The Town of Fenwick Island; and

**Whereas**, this Personnel Policy Manual is the guiding document for Personnel Matters pertaining to employees of The Town of Fenwick Island; and

**Whereas**, this Personnel Policy Manual may be amended, supplemented or otherwise revised at a meeting of Town Council during which a quorum is present; and

**Whereas**, The Fenwick Island Town Council has deemed it necessary and proper to amend the Personnel Policy Manual for the Town of Fenwick Island in the following manner:

- 1) Section 1, Part 1 "General Provisions", within the sub-section "Definitions", a new definition shall be inserted. The definition **Essential Employee** shall be added as means an employee whose service is essential to the function of Town government as determined by Council within the Position Classification System, Job Description or contractual agreement. This description shall be designated "i)".
- 2) Subsequent definitions "i)" through "k)" shall be sequenced j)" through "l)".
- 3) Section 1, another new definition shall be inserted. The definition **Liberal Leave** shall be added as means paid time off, at the discretion of management, which shall be assessed against available vacation or personal leave. This description shall be designated "m)".
- 4) Subsequent definitions "l)" through "n)" shall be designated "m)" through "o)".
- 5) Section 2, Part 4 "Position Classification System", subsection "B" will be added as follows:

### **Essential Employee**

The Town Manager, Chief of Police, Director of Public Works and, unless otherwise specified, all employees of the Police and Public Works Departments are considered essential employees. Essential employees are expected to report to work as scheduled. Absence from work is excused if pre-approved or if documentation of cause is provided to the satisfaction of the Department Supervisor.

- 6) Section 3, Part 3 "Group Medical Insurance", subsection B "Terms" shall be replaced as follows: The Town shall contribute toward the payment of premiums for employees' health and dental insurance. Such contributions shall be determined as a matter of budgetary discretion on an annual basis. Employees are responsible for the balance of premiums on any company-sponsored insurance programs.

**Whereas**, these proposed changes have been posted in all departments for a period of ten (10) working days and employees have been given the opportunity to provide comment to the Town Manager;

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**Therefore,** the Town Council of The Town of Fenwick Island, after consideration of employee comment, does hereby adopt these changes to The Personnel Policy Manual for The Town of Fenwick Island.

Attest: \_\_\_\_\_  
Agnes D. DiPietrantonio, Town Clerk

\_\_\_\_\_  
Audrey Serio, President of Council

\_\_\_\_\_  
Diane B. Tingle, Council Secretary

I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the President and Council at a meeting on April 23, 2010, at which a quorum was present and voting throughout and the same is still in force and effect.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Diane B. Tingle, Council Secretary



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## EXISTING – (CHAPTER 112 – PARKING):

§112-5. Determination of Council; issuance of permits.

G. All parking on Town sheets and beach ends, including handicapped spaces, require permits from May 15 through September 15. Such permit shall be visually displayed hanging from the rearview mirror in the vehicle so that it is able to be readily seen from the street. Duplications or reproductions of such permits are not valid. The fees for such permits shall be as set by resolution of the Town Council from time to time.

§ 112-6. Parking for handicapped persons.

A. No person shall park, stop or stand a vehicle at any time upon any of the streets or parts of streets designated in § 112-7, except a vehicle for which a special plate has been issued pursuant to 21 Del. C. § 2134 or for which an authorized identification card has been issued by the Director of the Division of Motor Vehicles and displayed in the front window of such vehicle. Any vehicle operated by a handicapped person and for which a special plate or authorized identification tag has been issued shall be permitted to park 90 minutes longer than the legal parking period unless such vehicle is clearly a traffic hazard.

B. Handicapped parking and signage for persons with disabilities:...

(4) For purposes of this section, "conspicuously marked" means that a vertical sign has been placed at an approximate height of at least five feet but no more than seven feet when measured from the surface directly below the sign to the top of the sign for each parking space or zone. The sign shall comply with federal specifications for the identification of a parking zone or space of persons with disabilities which limit or impair ability to walk. A sign at least 12 inches wide (horizontal) by 18 inches tall (vertical) that includes the internationally recognized wheelchair symbol of access shall be required for each parking space or zone for persons with disabilities which limit or impair the ability to walk. These requirements may not be constructed to preclude additional markings, such as the international wheelchair symbol or a striped extension area painted on the space or zone, or a tow-away warning sign.

## PROPOSED:

§112-5G Correct typographical error from "sheets" to "streets".

§ 112-6. Parking for handicapped persons.

A. No person shall park, stop or stand a vehicle at any time upon any of the streets or parts of streets designated in § 112-7, except a vehicle for which a special plate has been issued pursuant to 21 Del. C. § 2134 or for which an authorized identification card has been issued by the Director of the Division of Motor Vehicles and displayed in the front window of such vehicle.

§112-6B(4) Correct typographical error from "been" to "been".

## EXISTING – (CHAPTER 120 – PROPERTY MAINTENANCE):

§ 120-1. Weeds and grass.

B. Each owner shall be required to cut the weeds and grass on his lot(s) and remove rubbish which may accumulate thereon. The predominant height of grass and/or weeds shall not exceed 10 inches. All areas shall be maintained so that no grass and/or weeds are allowed to grow in any area that is not an established lawn. [Amended 4-27-2007]

(1) All lots west of Del. Route 1 shall be required to be maintained. All lots east of Del. Route 1 which have been planted with commercial grass to establish a lawn, shall be required to be cut.

(2) Other lots east of Del. Route 1 shall not be required to be cut because the natural vegetation helps prevent sand erosion, and helps stabilize the soil. The sandy nature of the soil minimizes the mosquito problem.

§ 120-3. Failure to comply with notice.

In the event the owner fails to comply with such notice within the time set forth, he shall be deemed to be guilty of maintaining a nuisance and/or unsanitary condition. Therefore, the Town of Fenwick Island shall have:

B. As to a violation of § 120-1B, the authority (be empowered) to have the Public Works Department clear the property of weeds, high grass and any trash thereon. The fee for the service shall be \$250 for each time it is performed and shall be charged to the owner(s) of the lot(s).

## PROPOSED:

Delete: Chapter 120-1B(2)

Amend: § 120-3. Failure to comply with notice.

B. As to a violation of § 120-1B, the authority (be empowered) to have the Public Works Department clear the property of weeds, high grass and any trash thereon. The fee for the service shall be \$500 for each time it is performed and shall be charged to the owner(s) of the lot(s).

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*Proposed Second Reading – April 23, 2010*

## EXISTING – (CHAPTER 116 – PEACE AND GOOD ORDER):

### § 116-3. Sleeping on public beaches.

It shall be unlawful for any person to sleep, lie or loiter on, or occupy as a sleeping quarter or under the guise of pretending to sleep, on any part of the public beaches within the corporate limits of the Town of Fenwick Island, Delaware, between 12:00 midnight and 8:00 a.m. local time.

### § 116-5. Tailgating.

It shall be unlawful for any person to tailgate from any vehicle or picnic on any street or highway within the corporate limits of the Town of Fenwick Island, Delaware. For the purposes of this chapter, "tailgating" shall mean standing or sitting and eating or drinking on any street or highway and using the vehicle as a picnic facility.

### § 116-6. Occupancy of vehicles during certain hours.

It shall be unlawful for any person to occupy any vehicle parked on any street or any parking area generally available to the public within the corporate limits of the Town of Fenwick Island, Delaware, between the hours of 2:00 a.m. and 6:00 a.m.

### § 116-7. Violations and penalties.

Any person violating any provision of this chapter, upon conviction thereof before the Alderman of the Town of Fenwick Island, Delaware, shall be fined fifty dollars (\$50.) and costs for each and every offense.

## PROPOSED:

### § 116-3. Sleeping on public beaches.

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### § 116-7. Violations and penalties.

Any person violating any provision of this chapter shall, upon conviction, be fined fifty dollars (\$50.) plus Court costs for each and every offense.